
Commerce & Labor Committee

HB 2672

Brief Description: Addressing adult family home caregivers.

Sponsors: Representatives Conway, Green, Barlow, Hasegawa, Loomis, Simpson, VanDeWege, Kenney and Seaquist.

Brief Summary of Bill

- Establishes a referral registry through which adult family home providers contract for hours of care, and through which caregivers are paid.
- Establishes a minimum wage rate for caregivers of \$9 per hour.
- Provides for collective bargaining between the Governor and caregivers over wages, fringe benefits, training, and other subjects under the Public Employees' Collective Bargaining Act.
- Requires that training opportunities for caregivers represented by an exclusive bargaining representative be offered through contracts with the training partnership.
- Requires that Medicaid and state-funded long-term care payment rates be increased to reflect increases to wage rates and personnel costs.

Hearing Date: 1/29/08

Staff: Jill Reinmuth (786-7134).

Background:

In Washington there are a variety of long-term care services for persons who are elderly or have disabilities. These services include nursing homes, assisted living facilities, adult family homes, and individual providers (home care workers).

Adult Family Home Providers

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Department of Social and Health Services (Department) licenses adult family homes to provide residential care for up to six persons in a home-like setting. The residents in adult family homes are persons who are elderly or who have physical or developmental disabilities. They generally require supervision or assistance with activities of daily living and/or health-related services and are unable to live alone. The Department sends payments directly to adult family homes that provide long-term care services for clients who are eligible for Medicaid and development disabilities programs.

Individual Providers

The Department also contracts with individual providers (home care workers) to provide long-term care services for persons who are elderly or who have disabilities and who are eligible for Medicaid and developmental disabilities programs. The individual providers provide the Department's clients with personal care assistance for various tasks such as toileting, bathing, dressing, ambulating, meal preparation, and household chores. The individual providers are hired and fired by the consumer client, but are paid by the Department.

The Home Care Quality Authority (Authority) provides oversight of home care services provided by individual providers. The Authority's duties include establishing qualifications and accountability standards for, and investigating the background of, individual providers. It also recruits new individual providers, provides them with training opportunities, and administers a referral registry to help consumers find an individual provider.

Collective Bargaining

Employees of cities, counties, and other political subdivisions of the state bargain their wages and working conditions under the Public Employees' Collective Bargaining Act (PECBA). Adult family home providers and individual providers who receive payments from the Medicaid and state-funded long-term care programs and individual providers also have collective bargaining rights under the PECBA.

Summary of Bill:

Various provisions relating to adult family home caregivers are enacted and amended. They establish a referral registry, grant collective bargaining rights, and provide for training opportunities. They also address the minimum wage rate paid to caregivers and the Medicaid and state-funded long-term care rates paid to providers.

For purposes of these provisions, "caregivers" are those who are employed by adult family home providers. "Adult family home providers" are those who receive payments from the Medicaid and state-funded long-term care programs and who have collective bargaining rights under the Public Employees' Collective Bargaining Act (PECBA).

Referral Registry

The Home Care Quality Authority (Authority) must establish and manage a referral registry, and must assist adult family home providers in finding caregivers and respite care through the referral registry.

Adult family home providers must provide lists of caregivers to the Authority to be included in the referral registry. Lists must include the names and addresses of caregivers, as well as

information necessary to determine whether caregivers have met minimum training requirements and undergone criminal background checks.

The Authority must determine that caregivers have met minimum training requirements, undergone criminal background checks, and are not listed on the Department of Social and Health Services' long-term care abuse and neglect registry before including them in the referral registry.

Adult family home providers must contract with the Authority for all hours of care provided by caregivers beginning October 1, 2009.

The Authority must, upon request, provide lists of caregivers to labor organizations seeking to organize caregivers. Lists must include names and addresses of caregivers.

Caregiver Compensation and Long-Term Care Payment Rates

Beginning July 1, 2008, adult family home providers must pay caregivers wages of not less than \$9 per hour.

Beginning October 1, 2009, the Authority must pay caregivers wages based on the greater of the minimum hourly rate (\$9 per hour), a rate set by legislation, a rate set by collective bargaining, or a rate requested by the provider. The Authority must also administer fringe benefits and deduct and remit payroll taxes.

Beginning October 1, 2009, the Authority must collect cost reports from adult family home providers. Cost reports must include: (1) hours of care provided by providers, hours of care provided by caregivers, and costs of those hours; and (2) costs of noncare-related items, such as supplies or capital costs.

Client-specific daily Medicaid and state-funded long-term care rates must be increased to reflect personnel costs (as a percentage of overall costs) and increases to wage rates.

Collective Bargaining for Caregivers

Solely for purposes of collective bargaining, caregivers are "public employees" and the Governor is the "public employer." The only appropriate unit is a statewide unit of all caregivers. The exclusive representative is determined in the manner specified in the PECBA.

The scope of bargaining is limited to the following:

- wages, fringe benefits, and training;
- how the Department's core responsibility affects hours of work for caregivers; and
- public employer contributions to the training partnership.

Caregivers are subject to mediation and binding interest arbitration if an impasse occurs in negotiations.

Union dues are deducted from the caregiver's payments as authorized by the caregiver or as required by a union security clause.

The following are not modified:

- The providers' rights to select, hire, supervise, and direct the work of, terminate, and determine the conditions of employment.
- The DSHS' authority to establish plans of care or its responsibilities to manage long-term care services.
- The DSHS' obligation to comply with Medicaid laws and waivers and to ensure federal financial participation.
- The residents', parents', or legal guardians' right to choose and terminate a provider's services.
- The rights of providers and caregivers under the National Labor Relations Act.
- The Legislature's right to make programmatic modifications.

Training

Training opportunities for caregivers represented by an exclusive bargaining representative must be offered through contracts with the training partnership.

Other

The scope of bargaining with adult family home providers is modified to exclude matters subject to bargaining with caregivers.

The Authority has the same authority with respect to caregivers as it has with respect to individual providers, including rulemaking.

A new dedicated account is established into which payments from providers are deposited and from which payments to caregivers are made. The account is subject to allotment, but not appropriation. The Authority may contract with a financial institution to receive and deposit payments in and make expenditures from the account. The account retains its interest earnings.

Rules Authority: The Home Care Quality Authority (Authority) is generally authorized to issue necessary rules. The Authority is specifically required to establish hourly rates paid by adult family home providers for caregivers in rule.

Appropriation: None.

Fiscal Note: Requested on January 26, 2008.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.